

Constituent Disclosure Proposals Are Simply a Back-Door Attempt at Prohibition

Rep. Synar has proposed that cigarette companies be required to disclose to the public the levels of the over 4,000 constituents of cigarette smoke, on a brand-by-brand basis. In addition, Rep. Synar, in a "Dear Colleague" letter, has identified constituents of cigarette smoke, associating their presence in cigarette smoke with the most noxious uses that he could find, such as gas chamber poison and rocket fuel.

What Rep. Synar fails to mention is that his proposal is simply a means to harass cigarette manufacturers by subjecting their products to FDA regulation - regulation that is grounded in assuring product safety -- when the very proponents of such regulation have repeatedly claimed that cigarettes can never be made "safe" or "safer." Rep. Synar's intent is made all the more clear by the fact that his proposal additionally subjects tobacco products to standards and requirements that other FDA-regulated products do not have to meet. One of these requirements is onerous constituent disclosure.

On the specifics of his constituents proposal and "Dear Colleague" letter, Rep. Synar also fails to mention the following facts:

- The cigarette smoke constituents on the Synar list also are found in the foods we eat, the water we drink, and in the air we breathe. For example:
 - Metals, which are ubiquitous in the earth's soil, are found in foods, such as orange juice (aluminum), legumes (zinc), grains (lead), vegetables (lead and copper), beans (titanium), and beef (copper).
 - Hydrogen cyanide, which Rep. Synar associates with gas chamber poison, is present in apples and cereals.
 - Acetone, which Rep. Synar describes as "nail polish remover," is found in apples, milk, beer, bread, butter, vegetables, coffee, fish and meat.
 - Methanol, which Rep. Synar associates with rocket fuel, is found in dried legumes, baked potatoes and roasted filbert nuts.
 - Toluene, described as an industrial solvent, is present in baked potatoes, cheese, bacon and fried chicken.

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- Nitrosamines, described by Rep. Synar as cancer causing agents, are found in bacon, ham, cured meats and wines.
- Arsenic is found in broccoli, carrots, cabbage and eggs.
- The Synar examples are exaggerations: he relies on high level use of such chemicals, rather than levels comparable to what is found in cigarette smoke.
- And many of these constituents are approved by the FDA as indirect or direct food additives or are generally recognized as safe ("GRAS") for foods.
- Rep. Synar's letter also omits the fact that the levels of "tar," as well as the other major constituents -- nicotine and carbon dioxide -- already are being reported to the FTC, which is authorized to publish such reports. "Tar" and nicotine levels additionally have been disclosed to the public (in ads) for over 20 years.
- Further, Rep. Synar does not point out that requiring cigarette companies to test the levels of the over 4,000 constituents of cigarette smoke, on a brand-by-brand basis, would take years to accomplish. *In the meantime, cigarettes could not be sold.*
- Rep. Synar also fails to note that the FDA does not require the disclosure of constituents arising during the cooking process, even though any scientist will attest to the fact that the composition of the ingredients in food changes during this process.
- Finally, from a public policy standpoint, to what end, other than to disrupt marketing of cigarettes and to achieve *de facto* prohibition, is this proposal aimed? Greater public awareness clearly is not a realistic goal.
- As noted above, the levels of the major constituents are already disclosed to the government and the public.
- Cigarette packages already bear sizeable health warnings about the supposed risks of smoking, and surveys show that more Americans know about the claimed risks of smoking than the name of our first President. Are smokers any more likely to quit because of some incomprehensible list of chemical names of cigarette smoke constituents?

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- Requiring a long recital of chemical names also would be meaningless and confusing to consumers. They are used to reading *food labels*, which do not disclose constituents, and, with respect to ingredients, include only a common sense listing of ingredients, which discloses flavorings and the like categorically, rather than individually.
- Rep. Synar's proposal obviously is not intended to inform consumers. And, as experts have testified, scare warnings of this type very well may have the opposite effect and glamorize, not discourage, smoking. Moreover, it treads upon the constitutional right of companies' commercial speech because it is not designed to inform consumers or prevent deception -- but to simply scare people away from smoking.

To reiterate, Rep. Synar's proposal to regulate constituents, no matter how small the quantity, has no valid public policy basis, and his "Dear Colleague" letter is simply a scare tactic. His *strategy* is to make cigarettes *virtually unmarketable*. His *method* is to impose a far-reaching, burdensome and punitive regulatory scheme on cigarette companies, far in excess of that imposed on other FDA-regulated products.

Anti-smoking activists know that Congress will never again vote for prohibition. That's why they and Rep. Synar are seeking instead to *regulate* cigarettes out of existence and, therefore, to achieve *prohibition* through the back door.

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